

William Clerk

Call 2012



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William Clerk specialises in commercial law, insurance law, and civil fraud.

Recommended in the Legal 500 as “a very good advocate” and singled out for his “attention to detail and forensic analysis”.

His experience spans a number of industry sectors both domestically and internationally: manufacturing and logistics, technology, energy, insurance and reinsurance, construction and development, financial services, and sport.

Will's commercial practice deals with a wide range of litigation and arbitration (increasingly with international and cross border elements) concerning contractual disputes, director / shareholder (including s.994 petitions) and partner disputes, employment disputes (particularly concerning restrictive covenants and misappropriation of confidential information), asset finance, guarantee and indemnity claims, commercial agency and commission claims, professional negligence and sports disputes.

He has particular experience and is regularly instructed as sole or junior counsel in applications for urgent injunctive relief including: freezing orders (domestic and worldwide); search and imaging orders; doorstep delivery up orders; prohibitory and springboard injunctions; and Norwich Pharmacal orders.

Will is ranked in the Legal 500 for insurance & reinsurance. His insurance practice complements his commercial work, and he is frequently instructed to act for insurers in significant property damage claims (in particular claims arising from fires and floods), and claims where there are issues of policy coverage and/or fraud.

He has also developed a specialist sports law practice, acting principally for major international and UK sports governing bodies (for example the MCC, World Rugby, MUSK and the ACU) on a variety of high-value and high-profile claims typically raising complex issues of both sport and insurance law, and requiring an _____

aptitude with handling specialist technical evidence and expert witnesses.

Expertise

Commercial Dispute Resolution & Arbitration

Will is instructed in a wide range of commercial and company disputes across a variety of industry sectors including: manufacturing and logistics, technology, energy, insurance and reinsurance, construction and development, financial services, and sport.

He is highly sought after for his experience in contractual disputes, and those concerning civil fraud where he brings to bear his experience of obtaining and responding to urgent injunctive relief. In addition, he is regularly instructed in cases concerning shareholder, director and partner disputes.

Will has broad litigation experience as sole or junior counsel (increasingly with international and cross border elements), and also of both domestic and international arbitrations.

Notable Commercial Dispute Resolution & Arbitration cases

N v E (ongoing)

Acting for the Claimant in commercial court proceedings concerning a Cayman Islands joint venture relating to commercial aircraft leasing.

AM v BE (ongoing)

Acting for a defendant manufacturer of covert electronic communications equipment in a dispute regarding the international sale of goods. Listed for trial in 2022.

Re: K (ongoing)

Acting for a Respondent start-up company joined to a s.994 petition including allegations of accessory liability and misappropriation / diversion of business

A v B, C & D (ongoing)

Acting for a defendant previous director in a claim seeking injunctive relief and damages arising from alleged misappropriation of confidential information and alleged breaches of fiduciary duty. Listed for trial in 2023.

Re: A Company (ongoing)

Acting for members of a company in deadlock at director and shareholder level.

Re: A (ongoing)

Acting for a Petitioner in s.994 proceedings arising from the mismanagement of a family property investment company.

Re: Z (2021)

Acting in LCIA arbitration proceedings concerning force majeure in the context of Covid-19.

R v S (2021)

Acting for the Defendant in proceedings concerning the alleged misappropriation of a partnership asset. Compromised pre-issue following a successful mediation.

Re: X (2021)

Acting (led by Stuart Benzie, 2TG) for the petitioner in s.994 proceedings in the context of breaches of fiduciary duties and conflict between deadlocked directors of a services company.

Re: Schneebalg (2021)

Acting for the successful defendant investment management fund resisting payment of a fee claimed upon acquisition of a commercial property for c.£15m. The claim was dismissed in full with an order for indemnity costs in the defendant's favour.

X v Y & Z (2020)

Acted in a US\$40m ICC arbitration concerning agreements for the supply of banking software and hardware.

Shah v CVS Asset Management (2020)

Acted for the successful claimant executors of an estate wrongfully denied payment of dividend monies held on trust for it. Summary judgment granted in favour of the claimant (in the face of an application by the defendant to strike out the claim) with an order for indemnity costs in the claimant's favour.

Re: X (2020)

Acted for a wrongfully excluded partner in an LLP dispute.

Bestway v X (2019/2020)

Acted for the defendant provider of EPOS hardware and software in this dispute concerning the construction of software licence agreements.

AO v BE (2019/2020)

Acted (led by Sonia Nolten) in an ad hoc arbitration concerning data capture technology, and termination of an agency agreement.

Insurance

Will is ranked as a leading junior in the Legal 500 for insurance & reinsurance and has a busy insurance practice – split between advising and acting in subrogated recovery claims (often concerning property damage arising from fires, floods and subsidence), and advising and acting on issues of construction and coverage, joint insurance, contribution and non-disclosure.

He has particular experience of claims concerning fraud, exaggeration, and non-disclosure – where he brings to bear his experience from his commercial fraud practice.

Will is also instructed in claims under life and health insurance policies, which typically raise issues of coverage and fraud or exaggeration.

Notable Insurance cases

Re: H (ongoing)

Acting for the subrogated insurers in a claim to recover fraudulently misappropriated sums, including obtaining a freezing order over the Defendants' assets. Expected for trial in 2023.

Re: B (ongoing)

Acting for the defendant insurers who have declined cover in a claim for property damage on the basis that the claim is fraudulent.

S v H (2021)

Acting for insurers of mechanical and engineering contractors in a claim following allegedly negligent design, construction, and rectification works carried out by the assured.

Re: ABE (2021)

Acting for the insurers of engineering contractors in multiple, conjoined cases arising from a series of separate fires at a residential development.

F v N (2021)

Advising and acting for the insurers of a motorsports event in respect of numerous claims arising from a

catastrophic accident, raising issues of coverage, contribution, and proceeding against a co-assured.

N v E (2021)

Advising the defendant insurer in this claim arising from the installation of defective wiring and brought under the Third Party (Rights Against Insurers) Act 2010 concerning, amongst other things, the scope of the insurer's obligations under the Act.

Re: H (2020)

Acting for the respondent insurer, successfully setting aside an order made without notice, and then defending (in full) an application to call in a security bond in the sum of £750,000 arising from allegations that a Court of Protection deputy had misappropriated in excess of £1.5m.

L & G v MFS (2019/2020)

Acted for the claimant insurers in this professional negligence claim against defendant financial advisers.

A v B (2019)

Advising an insurer on coverage and subrogation rights in relation to losses sustained by both a landlord and a tenant of an insured commercial premises where the policy insured to their joint benefit.

X v Y (2019)

Advising an insurer on the operation of a surety bond (and whether it operated as a contract of indemnity).

PTF v HCC (2018)

Acting for the successful defendant insurer in a claim concerning the declinature under a policy of trade credit insurance. The claim was dismissed in full at trial.

Commercial Fraud

Will is a specialist in commercial fraud disputes (increasingly with cross-border elements) and receives. He has particular experience in this context in obtaining and responding to urgent interim applications, including: freezing orders (domestic and worldwide), search and imaging orders, doorstep delivery up orders, and Norwich Pharmacal / Bankers Trust orders.

Much of Will's commercial and insurance work includes issues of commercial fraud, in particular claims concerning breaches of fiduciary duties, economic torts (inducement of breach of contract and conspiracy), and claims in deceit.

Notable Commercial Fraud cases

Re: H (ongoing)

Acting for the subrogated insurers in a claim to recover fraudulently misappropriated sums following a cyber fraud, including obtaining a freezing order over the Defendants' assets. Expected for trial in 2023.

A v B & C (ongoing)

Obtaining a worldwide freezing order and acting for the claimant in these Commercial Court proceedings arising from the misappropriation and international dissipation of c.US\$3m.

A v B, C & D (ongoing)

Acting for a defendant previous director in a claim seeking injunctive relief and damages arising from alleged misappropriation of confidential information and alleged breaches of fiduciary duty. Listed for trial in 2023.

X v Y (2021)

Acted for the claimant insurers in this claim arising from the unlawful diversion of profits by an ex-director-employee.

S v M (2021)

Acted for the claimant co-director in this claim arising from the misappropriation of significant funds and broader mis-management of company affairs by a co-director.

Re: H (2020)

Acting for the respondent insurer, successfully setting aside an order made without notice, and then defending (in full) an application to call in a security bond in the sum of £750,000 arising from allegations that a Court of Protection deputy had misappropriated in excess of £1.5m.

Re: N (2020)

Acting for an expelled director, accused of breach(es) of fiduciary duty and misappropriation of funds.

Re: Z (2020)

Obtaining a Norwich Pharmacal order on behalf of an insurer in the context of repeated fraudulent claims by linked parties.

Hyperama v P & G (2019/2020)

Acting (led by Stuart Benzie, 2TG) for the claimant in these proceedings arising from the alleged diversion of

secret profits and misappropriation of confidential information by ex-employees, including successfully obtaining a doorstep delivery up order [2018] EWHC 3843 (QB), cited in WB vol.2 at §15-91.

Flogas v G4W (2019/2020)

Acting (as junior to Stuart Benzie) for the claimant company in successfully obtaining a search and delivery up order against various respondents.

Re: SS (2019)

Obtaining a freezing order on behalf of the insurer of a solicitors firm against the perpetrators of a significant fraud on their client account.

Re: P (2019)

Obtaining a Norwich Pharmacal order on behalf of an accountancy firm the victim of significant push-payment fraud.

Re: G (2019)

Obtaining a Norwich Pharmacal order on behalf of the insurer of a solicitors firm the victim of cyber-fraud.

Employment

Closely allied to his commercial fraud work, Will advises and acts in High Court employment cases concerning misappropriation of confidential information, breach of restrictive covenants, and team moves – often requiring urgent, interim applications to be made or responded to (e.g. imaging orders, search and/or delivery up orders, and springboard and/or prohibitory injunctions).

Notable Employment cases

A v B, C & D (ongoing)

Acting for a defendant previous director in a claim seeking injunctive relief and damages arising from alleged misappropriation of confidential information and alleged breaches of fiduciary duty. Listed for trial in 2023.

Re: GT (2021)

Advising a company on breach of confidence arising from the use of its business plan by an ex-employee.

Re: H (2020)

Advising and acting for the claimant company the victim of diversion of business and misappropriation of

confidential information by an ex-employee. The claim settled shortly after forensic images of the defendant's computers had been obtained.

Hyperama v P & G (2019/2020)

Acting (as junior to Stuart Benzie) for the claimant in these proceedings arising from the alleged diversion of secret profits and misappropriation of confidential information by ex-employees, including successfully obtaining a doorstep delivery up order [2018] EWHC 3843 (QB), cited in WB vol.2 at §15-91.

Re: G (2019)

Acting for a claimant company against a director who misappropriated confidential information and used the same to breach restrictive covenants.

Property Damage

Will is frequently instructed on behalf of insurers in subrogated recovery actions arising from damage to property, invariably caused by fires, floods or subsidence often involving allegations of professional negligence (in claims concerning defective design and/or construction) or defective products / product liability.

He has extensive experience of such claims (both as sole and junior counsel), and brings to bear his commercial practice in claims including significant elements of e.g. business interruption loss, often requiring dissection of expert forensic accountancy evidence.

Notable Property Damage cases

Re: X (ongoing)

Acting for subrogated insurers in recovery proceedings arising from a catastrophic warehouse fire.

E v B (ongoing)

Acting for the claimant in a multi handed and high-value subrogated recovery action arising from an escape of water in a commercial property in central London.

P v CS (ongoing)

Acting for the defendant in a claim concerning the allegedly defective design and construction of agricultural equipment.

Re: RS (ongoing)

Acting (led by Sonia Nolten and Doré Green, 2TG) for subrogated insurers in recovery proceedings arising from a catastrophic fire in a bowling alley.

A v B (ongoing)

Acting for the claimant neighbouring property destroyed by fire in this claim concerning the escape of fire from an adjoining residential property. The claim raises issues of professional negligence in addition to the ignis suus doctrine.

G v T (2021)

Acted for the claimant insurers in a claim concerning recovery of significant sums paid out in settlement to in excess of 50 individual third parties, arising from the escape of a hazardous substance onto the M6 motorway.

H v MCC v K (2021)

Acted for the Part 20 Defendant in this claim concerning significant damage to a commercial premises allegedly caused by neighbouring works.

J v Severn Trent (2021)

Acted for the claimant in a subrogated recovery action including a significant claim for business interruption / loss of profits, consequent upon flooding of a commercial premises.

O v H (2021)

Advising on the merits of a defence of automatism in a high-value subrogated recovery action.

J v E (2021)

Acting for the claimant in this significant subrogated recovery action arising from a fire caused by electrical equipment installed and/or maintained by the defendant and/or its sub-contractor.

A v B (2020)

Advising insurers on a significant claim arising from a break-in and theft to a commercial premises.

K v L (2019/2020)

Acting for the claimant in a subrogated recovery action brought for breach of the ignis suus duty arising from a catastrophic fire.

X v Y (2018/2019)

Advising insurers on the defence of automatism in the context of a catastrophic road traffic accident.

Pinner RFU v Harrow LBC (2018/2019)

Acting for the claimant in this subrogated recovery action arising from tree-root induced subsidence damage suffered to a leased clubhouse.

Sport

Will has developed a specialist sports law practice with a focus on the commercial, disciplinary, and regulatory aspects of sports disputes across a variety of different sports including: football, rugby, motorsports, cricket, tennis and athletics.

He has been nominated for the Sport Law Junior Barrister of the Year award in the Legal 500's Bar Awards (2022).

In addition to acting in commercial litigation in the sports context (for example, football club shareholder disputes), will frequently advises on the interpretation and application of sports bodies' laws and regulations, and also acts as procedural adviser from time to time for national and Olympic selection panels.

He is currently instructed by Kennedys on behalf of World Rugby (led by Nina Goolamali QC, 39 Essex) in the concussion test case litigation and is regularly instructed as counsel of choice by the major national governing bodies for motorsports in the UK (MSUK for 4 wheeled motorsports, and ACU for 2 wheeled motorsports) where he is a genuine specialist in claims brought against sports organisers, governing bodies or their insurers often instructed as sole counsel against silks.

Will has been appointed to the Sports Resolution UK Pro Bono Legal Service since July 2015 and in 2021 was appointed as a Development Member Arbitrator to the Sports Resolution UK panel of arbitrators.

Notable Sport cases

Re: Concussion Test Litigation (ongoing)

Acting for World Rugby (led by Nina Goolamali QC, 39 Essex), instructed by Kennedys.

A v C & ACU (ongoing)

Acting for the defendant motor racing circuit and governing body (ACU) in this significant claim arising from a catastrophic motor cycle accident. Due for trial (liability only) in 2022. Instructed by DWF.

Re: MCC (ongoing)

Advising the MCC on potential liability qua promulgator of the laws of cricket. Instructed by Clyde & Co.

E v MSUK (ongoing)

Acting for the defendant circuit and governing body (MSUK) in this high value claim arising from a motorsports accident concerning allegations of defective circuit and/or barrier design. Instructed by Clyde & Co.

Whalley v Rev 2 Race (ongoing)

Acting for a defendant mechanic in a claim arising from a fatal accident during the 2017 Ducati Championship. Instructed by Keoghs.

X v A Rugby Club (ongoing)

Acting for a defendant rugby club in proceedings brought by an ex-player alleging negligent rehabilitation from injury and claiming loss of career earnings. Instructed by Sheridans.

Re: A Football Club (2021)

Acted (led by Stuart Benzie, 2TG) for a football club in a shareholder dispute arising from a takeover.

Smith v MSUK (2021)

Acted for the defendant motor racing circuit and governing body (MSUK) in this significant claim arising from a highly publicised multi-car accident during the British Touring Car Championship. Instructed by BLM.

A v B (2021)

Acting (led by Sonia Nolten, 2TG) for a defendant stud in a claim brought by the owners of an international dressage horse. Instructed by Kennedys.

F v N (2021)

Acted for the defendant governing body, in this c.£1.5m claim arising from an accident involving a prototype electric superbike. Instructed by BLM.

Brand v No Limits [2020] EWHC 1306 (QB)

Will acted for the successful defendant motorsports organiser, leading to the dismissal in full of a c.£2m claim brought by an instructor against the organiser of a motorcycle track day. The case is of wider importance for its exposition of the law in the area.

Hall v Inch Perfect (2020)

Acted for the defendant motorsports organiser in this high value claim which raised significant issues

regarding the application of the Bolam test for professional negligence within the motorsports context. The liability only trial settled on day 4 of 5.

Joint v ACU (2020)

Acting for the defendant governing body, in this c.1.5m claim arising from a motocross accident.

Bareham v MSUK & Ors (2019/2020)

Acting for the MSUK in this international claim arising from an accident at the Wales Rally GB.

Clarke v Kerwin (2018)

Acting for the successful defendant motorsports organiser in this high value claim arising from a serious accident during an enduro event. The judgement is of wider importance, and has been frequently cited in subsequent cases for its exposition of the doctrine of the modified duty of care / inherent risk in sports cases.

PTIOs v X & Y (2016/2017)

Acting for a respondent in confidential disciplinary proceedings brought by the professional tennis integrity officers concerning match-fixing allegations.

Schwartz v OUPC (2016)

Acting successfully for the defendant club in a claim brought by an ex-member, raising issues of the scope of the Court's supervision of and jurisdiction over unincorporated associations in a sporting context.

National Ice Skating Association (UK) Ltd v X & Y (2015)

Acting for NISA in a Sports Resolutions (UK) appeal against disciplinary sanctions imposed by NISA. Appeal dismissed in full.

X v Y (2015)

Advising a Premiership rugby club in relation to a claim by an agent for non-payment of allegedly outstanding transfer fees.

Appointments

- Sport Resolutions UK Pro Bono Legal Service
- Arbitrator Development Member, Sports Resolutions (UK) Panel

Awards

- Queen Mother Scholar, Middle Temple
- Lord Justice Sachs Entrance Exhibition, Middle Temple
- Winner of the Rosamund Smith Mooting Competition, Middle Temple

Education

- BPTC, City Law School, London
- Graduate Diploma in Law (Distinction), City Law School, London
- BA (First Class Honours), Christ Church, Oxford University

Articles

- Claiming against unincorporated amateur sports clubs

Memberships

- COMBAR
- TECBAR
- LawInSport
- British Association for Sport and Law

Recommendations

“William is exceptionally intelligent, has great courtroom experience and is a formidable opponent.”

“He has a really excellent grasp of the commercialisation of sport and understands a lot of the pressures faced.”

Chambers UK 2024

“Meticulous in his preparation, first class grasp of the law and excellent knowledge of the sports sector – in particular motorsport and rugby.”

“Strong legal mind and knowledge tempered by commercial acumen, attention to detail and thoroughness, clear and concise written advice, tenacious but fair and respectful in their approach to advocacy.”

“An emerging star and destined for the top. Not only is he ridiculously bright and incredibly meticulous, he is also great to deal with.”

Legal 500 2024

“William Clerk has outstanding insights into and perceptiveness of sports. He has a very diplomatic manner and he is good at reading the tribunal so that he can adapt his style.”

“His attention to detail is second to none, and he is incredibly pragmatic.”

Chambers UK 2023

“William’s understanding of the rules and regulations specific to motorsport, and their application in the wider legal environment, is profound.”

“An outstanding junior with expertise across all classes of non-marine insurance. He has a meticulous eye for detail and a relaxed advocacy style, which goes down very well with judges and clients.”

Legal 500 2023

“A very good advocate whose attention to detail and forensic analysis contribute greatly to clients’ successes.”

Legal 500 2022

Nominated for the Sport Law Junior Barrister of the Year award in the **Legal 500’s Bar Awards (2022)**